

## Environmental Protection Agency

## § 265.71

of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

[*Comment:* Unless the owner or operator can demonstrate, in accordance with §261.3(c) or (d) of this chapter, that the recovered material is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of parts 262, 263, and 265 of this chapter.]

(h) The emergency coordinator must ensure that, in the affected area(s) of the facility:

(1) No waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

(2) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(i) The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he must submit a written report on the incident to the Regional Administrator. The report must include:

(1) Name, address, and telephone number of the owner or operator;

(2) Name, address, and telephone number of the facility;

(3) Date, time, and type of incident (e.g., fire, explosion);

(4) Name and quantity of material(s) involved;

(5) The extent of injuries, if any;

(6) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

(7) Estimated quantity and disposition of recovered material that resulted from the incident.

[45 FR 33232, May 19, 1980, as amended at 50 FR 4514, Jan. 31, 1985; 71 FR 16908, Apr. 4, 2006; 71 FR 40274, July 14, 2006; 75 FR 13006, Mar. 18, 2010]

### Subpart E—Manifest System, Recordkeeping, and Reporting

#### § 265.70 Applicability.

(a) The regulations in this subpart apply to owners and operators of both on-site and off-site facilities, except as

§265.1 provides otherwise. Sections 265.71, 265.72, and 265.76 do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources, nor to owners and operators of off-site facilities with respect to waste military munitions exempted from manifest requirements under 40 CFR 266.203(a).

(b) The revised Manifest form and procedures in 40 CFR 260.10, 261.7, 265.70, 265.71, 265.72, and 265.76, shall not apply until September 5, 2006. The Manifest form and procedures in 40 CFR 260.10, 261.7, 265.70, 265.71, 265.72, and 265.76, contained in the 40 CFR, parts 260 to 265, edition revised as of July 1, 2004, shall be applicable until September 5, 2006.

[70 FR 10823, Mar. 4, 2005]

#### § 265.71 Use of manifest system.

(a)(1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator or his/her agent must sign and date the manifest as indicated in paragraph (a)(2) of this section to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.

(2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator or his/her agent must:

(i) Sign and date, by hand, each copy of the manifest;

(ii) Note any discrepancies (as defined in §265.72(a)) on each copy of the manifest;

(iii) Immediately give the transporter at least one copy of the manifest;

(iv) Within 30 days of delivery, send a copy of the manifest to the generator; and

(v) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming EPA's consent to the import of hazardous waste to the following address within thirty (30) days

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of delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

(b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures), the owner or operator, or his agent, must:

(1) Sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;

(2) Note any significant discrepancies (as defined in §265.72(a)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

[*Comment:* The Agency does not intend that the owner or operator of a facility whose procedures under §265.13(c) include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. Section 265.72(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.]

(3) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);

(4) Within 30 days after the delivery, send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator; and

[*Comment:* Section 262.23(c) of this chapter requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).]

(5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.

(c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must

comply with the requirements of part 262 of this chapter.

[*Comment:* The provisions of §262.34 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of §262.34 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.]

(d) Within three (3) working days of the receipt of a shipment subject to 40 CFR part 262, subpart H, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the exporter, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and to competent authorities of all other countries concerned. The original copy of the movement document must be maintained at the facility for at least three (3) years from the date of signature.

(e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated Federally) as hazardous wastes under its state hazardous waste program. Facilities must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to these states.

[45 FR 33232, May 19, 1980, as amended at 45 FR 86970, 86974, Dec. 31, 1980; 50 FR 4514, Jan. 31, 1985; 61 FR 16315, Apr. 12, 1996; 70 FR 10823, Mar. 4, 2005; 75 FR 1260, Jan. 8, 2010]

### § 265.72 Manifest discrepancies.

(a) Manifest discrepancies are:

(1) Significant differences (as defined by paragraph (b) of this section) between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;

(2) Rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept; or

(3) Container residues, which are residues that exceed the quantity limits for "empty" containers set forth in 40 CFR 261.7(b).

(b) Significant differences in quantity are: For bulk waste, variations